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October 27, 2005

Ms. Marlene H. Dortch  
Secretary  
Federal Communications Commission  
445 12th Street, S.W.  
Washington, DC 20554

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OCT 27 2005

Re: Notice of Ex Parte Presentation  
SAT-PPL-20050926-00184  
IB Docket Nos. 05-220 and 05-221

Federal Communications Commission  
Office of Secretary

Dear Ms. Dortch:

On Wednesday, October 26, 2005, Diane J. Cornell, Inmarsat's Vice President of Government Affairs, and I, met with Emily Willeford and Fred Campbell of Chairman Martin's office.

The two enclosed documents formed the basis for the conversation.

Sincerely yours,

  
John P. Janka

cc: Emily Willeford  
Fred Campbell

2 GHz MSS Solutions

- 2 GHz is a “greenfield” uniquely suited to support next generation multimedia and broadband MSS services
  - Large blocks of contiguous spectrum easily accommodate wideband channels
  - Not constrained by the need to protect existing MSS users who, in the aggregate, have invested billions in their terminal equipment and related communications infrastructures
- If MSV/TerreStar got as much of the 2 GHz band as they seek, they would have almost twice as much MSS spectrum over the Americas as anyone else: ~46 MHz
  - 20 MHz at 2 GHz (2 x 10 MHz)
  - ~26 MHz at L Band (2 x ~13 MHz)

In comparison, over the Americas:

- Inmarsat has ~28 MHz (2 x ~14 MHz) (L Band)
  - Globalstar has ~28 MHz (11.35 MHz & 16.5 MHz) (Big LEO)
  - Iridium has ~8 MHz (1 x 8.25 MHz) (Big LEO)
  - ICO would have 20 MHz (2 x 10 MHz) (if they get what they seek) (2 GHz)
- The Commission has many better alternatives than creating a duopoly at 2 GHz:
    - Open the newly available 2 GHz MSS spectrum (2 x 12 MHz) for a processing round to accommodate new entrants and possibly allow MSV/TerreStar and ICO to add to their current holdings
      - Determine the amount of spectrum potentially available for any entity (*e.g.*, 2 x 4 MHz or 2 x 5 MHz)
      - Use a modified process to award spectrum rights, based on the first entities to actually launch, until the band is fully subscribed by launched spacecraft
    - If the Commission gives MSV/TerreStar and ICO 2/3 of the 2 GHz band now, as proposed in the June 29 Public Notice, it still could either:
      - Provide Inmarsat access to the remaining 1/3, for the reasons stated in its 2 GHz market access request; or
      - Open a “modified” processing round for the final 1/3, assigning the remaining third of the band to the first applicant to actually launch
    - Decide to keep the returned 2 GHz spectrum for MSS, and initiate a rulemaking proceeding to determine how best to assign it
      - Preserving flexibility for assigning this spectrum makes sense, given
        - how valuable this band is
        - that MSV/TerreStar and ICO have not actually launched

## Inmarsat's 2 GHz Petition for Declaratory Ruling Is Consistent With Rules and Precedent

- DISCO II established a procedural mechanism for non-U.S. licensed satellites to obtain U.S. market access *outside of a processing round* (FCC 97-399, ¶ 186)
  - DISCO II Recon added the Petition for Declaratory Ruling (PDR) mechanism (FCC 99-325 at ¶¶ 7-12)
  - A PDR is *not* available to someone seeking a U.S. satellite license (*Id.*)
- No FCC *rule* requires a spacecraft be in orbit to seek a PDR (*See* 47 CFR §25.137)
- No FCC *practice* requires that a spacecraft be in orbit to seek a PDR
  - At least *eleven separate* PDR applications for *unlaunched* spacecraft have been accepted for filing and processed:
    - Spacecom Satellite, SAT-PDR-20020823-00161 (Israel)
    - Telesat, SAT-PDR-20020321-00027 (Ka band) (Canada)
    - Telesat, SAT-PDR-20010906-00082 (C/Ku band)(Canada)
    - Loral Skynet, SAT-PDR-20021010-00196 (Brazil)
    - EUTELSAT, SAT-PDR-20010118-00011 (AB-1) (French)
    - EUTELSAT, SAT-PDR-20010207-00012 (AB-2)(French)
    - Loral, SAT-PDR--20020315-00025 (Papua New Guinea)
    - StarOne, SAT-PPL-20031230-00367 (Brazil)
    - SES, SAT-PDR-20020425-00071 (Luxembourg)
    - Spectrum Five SAT-LOI-20050312-00062 (Spectrum 1A) (Netherlands)
    - Spectrum Five SAT-LOI-20050312-00063 (Spectrum 1B) (Netherlands)
  - None of those PDR applicants (not even Telesat Canada) sought a waiver of any “in orbit requirement” to file a PDR
  - Most were filed when a processing round was the *only way* to get authority to operate a satellite to serve the U.S.
- The FCC recognizes the importance of granting market access for unlaunched spacecraft to allow the non-U.S. entity to raise financing and develop customers *prior to launch*
- The FCC imposes bonds and milestones on unlaunched spacecraft, rather than deciding who appears serious and who does not
- PDRs may be used for FSS, DBS or MSS spacecraft
  - DISCO II recon allows PDRs for non-FSS systems (FCC 99-325, ¶¶ 7-12)
    - It specifically contemplates PDRs for DBS and DARS systems, which use non-FSS frequency bands (*Id.*, ¶¶ 11, 12)
    - The *additional* “Permitted Space Station List” mechanism is available only for a subset of PDRs---using conventional C or Ku bands (*Id.*, ¶¶ 7, 13-20)
- In practice, the FCC has accepted for filing at least three non-FSS PDRs: SES's and Spectrum Five's DBS applications (see above)
- There is no reason to treat MSS PDRs differently than FSS or DBS PDRs
  - FSS providers may now compete directly with MSS by offering a wide variety of MSS services in FSS bands